SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1281

MEL TONASKET, et al.,
Petitioners,

v.

ALICE M. THOMPSON,
Respondent.

NARCISSE NICHOLSON, JR., et al.,
Petitioners,

v.

JUNE KAREN LARAMIE, et al.,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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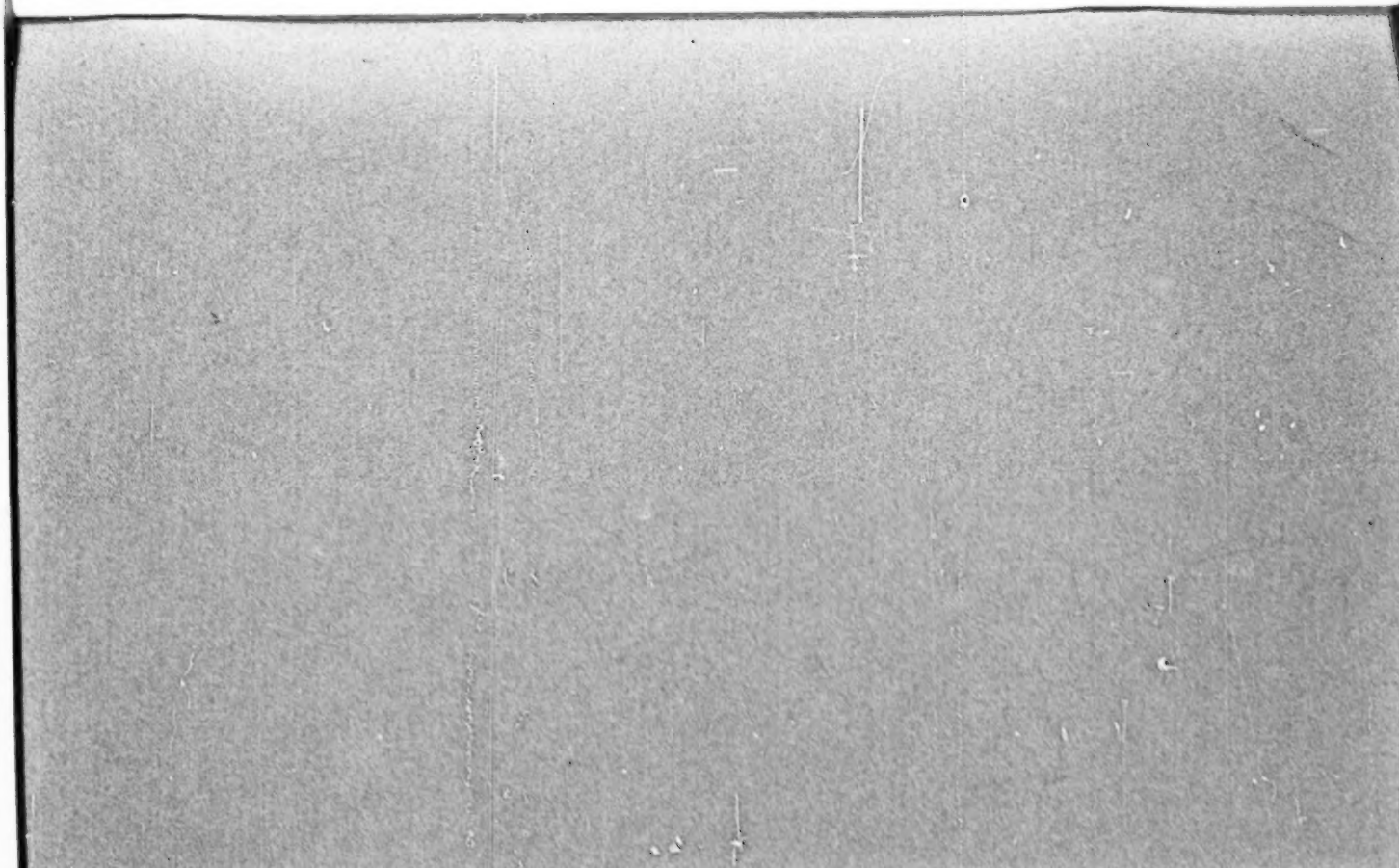

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No. 73-1281

MEL TONASKET, et al.,
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ALICE M. THOMPSON,
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BRIEF IN OPPOSITION TO PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

OPINIONS BELOW

The opinions of the Ninth Circuit Court of Appeals are reported as *Thompson v. Tonasket*, 487 F.2d 316 (9th Cir. 1973), and *Laramie v. Nicholson*, 487 F.2d 315 (9th Cir. 1973).

JURISDICTION

The jurisdiction of the United States Supreme Court was invoked under 28 U.S.C. § 1254(1).

QUESTION PRESENTED

The sole question presented by the Petitioner is, whether federal courts have jurisdiction to decide cases arising under the Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-03; where it is alleged that a plaintiff has been denied equal protection of Tribal Law or has been deprived of property without due process of its law?

CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS INVOLVED

The Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-03.

28 U.S.C. § 1343(4).

Rule 19 of the Rules of the United States Supreme Court.

Article VII of the Constitution and By-Laws of the Confederated Tribes of the Colville Indian Reservation, Washington.

Resolution 1967-186 of the Colville Business Council.

Resolution 1969-349 of the Colville Business Council.

STATEMENT OF THE CASE

1. The *Thompson* Case

Mrs. Thompson, plaintiff in the district court, was born August 25, 1911, in Okanogan County, Washington, as an American citizen. She has always retained her rights as an American citizen, and she is married to an American citi-

zen. She is 5/8 degree Colville Indian blood. Plaintiff has consistently kept up her contact with the Colville Confederated Tribes, and is not a member of any other Indian tribe. Her great uncle was Chief Nespelem George, chief of the Colville Tribe and San Poil Tribes, and Chief Jim James, who was the chief of the Colville Tribes, was also known to her as her uncle. (Tr. 3, 51, 52)

Mrs. Thompson was enrolled in the Colville Indian Tribe on November 2, 1911, and given an allotment on the Colville Reservation. She remained enrolled on the Colville rolls from the time she was placed thereon up to 1952, when her name was improperly stricken from the rolls by the governing body of the Colville Confederated Tribes. (Tr. 2, 52) In 1952, the Tribe ceased to pay her the annual per capita payments due her, and in 1958, she received her Patent in Fee to her allotment. (Tr. 2)

At one time, when she was residing in Canada, she voted in a Provincial election for a candidate. She was not registered as a Canadian citizen to vote, and she did not at any time register to vote in this election. (Tr. 50) Her name was stricken from the Colville rolls because she had voted in a foreign election, and by so doing, had lost her American citizenship. It was the contention that her citizenship was lost under 8 U.S.C. § 1481(a)(5) and under the ruling of *Perez v. Brownell*, 356 U.S. 44 (1958), holding that the last quoted section of the law was constitutional. This section of the law was declared unconstitutional, in the case of *Afroyim v. Rusk*, 387 U.S. 253 (1967), and the *Brownell* case was overruled. She thereafter petitioned the Colville Business Council to be reenrolled as a member of the Colville Tribe. Mrs. Thompson contended that the Enrollment Committee, in disenrolling her, did not

have the authority to determine that she, as a tribal member, would lose her nationality by voting in a foreign election. She further contended they did not have the authority to declare that she had lost her citizenship, and thereby lost her right to remain a member of the Colville Tribe, because she had voted in a foreign election.

Her petition was based upon the *Afroyim* case in 1967, declaring 8 U.S.C. § 1481(a)(5) unconstitutional. (Tr. 3, 4) Mrs. Thompson made repeated requests for reenrollment. but the Colville Enrollment Committee and Business Council refused to reenroll her or take any action on her request. She met all of the requirements for membership in the Colville Confederated Tribes at all times.

The complaint alleged, among other things, that the action of the governing body of the tribe was arbitrary, capricious, and discriminatory and that Mrs. Thompson had been denied equal protection of its law and deprived of her property without due process of law under the Indian Bill of Rights, 25 U.S.C. § 1302(8).

Mrs. Thompson prayed in her complaint to be reinstated and reenrolled as a member of the Tribe, and that her name be placed retroactively upon the rolls, effective as of the date of her disenrollment in 1952. Mrs. Thompson asked that she receive the back per capita payments that had been improperly withheld from her, plus interest thereon and a reasonable attorney's fee. (Tr. 6, 7)

Defendants attacked the jurisdiction of the court, and argument was held on the matter. The court entered an order dismissing Mrs. Thompson's complaint for lack of subject matter jurisdiction. (Tr. 54, 55)

On December 17, 1971, Mrs. Thompson filed a Notice of Appeal to the Ninth Circuit Court of Appeals and on November 2, 1973, the Ninth Circuit Court of Appeals entered judgment reversing the dismissal and remanding the case to the district court for further proceedings.

The merits of Mrs. Thompson's claim are not before this court. Rather, the issue is whether, under the Indian Bill of Rights, 25 U.S.C. § 1302, and 28 U.S.C. 1343(4), the district court has jurisdiction to hear her claim.

2. The *Laramie* Case

The Laramie children, plaintiffs in the district court, were all minors when this action began. Patricia Mae Laramie was born May 23, 1956; Constance Susan Laramie was born January 7, 1958; and June Karen Laramie was born September 11, 1954. They are all United States citizens and are also half-blooded Colville Indians. On January 22, 1968, a written application was made on their behalf to the Colville Business Council for their enrollment in the Colville Confederated Tribe as members. Their mother, Evelyn A. Laramie, is a member of the tribe. Mrs. Laramie was advised that before the minors could be enrolled, they had to meet certain requirements. These requirements were: (1) That they be citizens of the United States; (2) That they have one-quarter Indian blood; (3) That they not be members of any other tribe; (4) That they had not been members of any other tribe.

The minors met the first three requirements. There are a number of disputes on the merits as to: whether factually, they met the fourth requirement; whether the fourth requirement actually existed at the time of their application; whether, by reason of an arrangement with the Bureau of

Indian Affairs, a decision by the Commissioner of Indian Affairs would be final and binding on both parties (the dispute was submitted to the Commissioner, who did rule for the children; his decision was, however, ignored by the Enrollment Committee and Business Council); and finally, whether, the fourth requirement has been applied in a discriminatory fashion to these children, in that in the case of other individuals similarly situated, the fourth requirement was not invoked to deny them membership in the tribe. This last claim is based on, among other things, the equal protection and due process clauses of the Indian Bill of Rights, 25 U.S.C. § 1302(8).

None of these questions is before this Court. The issue is, rather, whether the district court, under the Indian Bill of Rights, 25 U.S.C. § 1302, and 28 U.S.C. § 1343(4), has jurisdiction to hear these claims.

The Laramie children brought this action on July 22, 1970. On January 18, 1972, the district court dismissed the complaint for lack of subject matter jurisdiction. On January 24, 1972, the children filed a Notice of Appeal to the Ninth Circuit Court of Appeals and on October 9, 1973, the Ninth Circuit Court of Appeals entered judgment reversing the dismissal and remanding the case to the district court for further proceedings.

REASONS WRITS SHOULD BE DENIED

1. Under Rule 19 of the Rules of the United States Supreme Court, There Is No Good Reason Now to Grant a Writ of Certiorari on This Issue, Since All Final Lower Court Cases to Date Have Been Unanimous in Accepting Jurisdiction, and There Is No Pressing Need to Settle the Question

Every Circuit Court of Appeals that has faced the instant question has found in favor of jurisdiction and against tribal sovereign immunity. No unreversed district court decision has been reported to the contrary. *See Groundhog v. Keeler*, 442 F.2d 674 (10th Cir. 1971); *Slattery v. Arapahoe Tribal Council*, 453 F.2d 278 (10th Cir. 1971) [The Tenth Circuit cannot be said to have *held* that federal courts have jurisdiction over Indian Bill of Rights claims, but, while specifically avoiding the issue in *Slattery*, the court indicated by its language; its citation of a Harvard note cited below; and the general tone of its opinion that it felt that there probably was jurisdiction. 453 F.2d at 281. Further, a district court in the Tenth Circuit has held that federal courts have jurisdiction, under 28 U.S.C. § 1343(4), to enforce the provisions of the Indian Bill of Rights. *McCurdy v. Steele*, 353 F. Supp. 629 (D. Utah 1973).]; *Luxon v. Rosebud Sioux Tribe of South Dakota*, 455 F.2d 698 (8th Cir. 1972); *White Eagle v. One Feather*, 478 F.2d 1311 (8th Cir. 1973); *Johnson v. Lower Elwha Tribal Community of Lower Elwha Indian Reservation*, 484 F.2d 200 (9th Cir. 1973); and *Seneca Constitutional Rights Organization v. George*, 348 F. Supp. 48 (W.D. N.Y. 1972).

Under Rule 19 of the Rules of the United States Supreme Court, the only possible consideration for granting certiorari in this case is that,

> a court of appeals . . . has decided an important question of federal law which has not been, but should be, settled by this Court.

The operative words are "should be." Presumably the criterion of that "should be" is that the law is unclear and should be clarified speedily, without waiting for a split in

the circuit courts of appeal. But here, the law is clear. At least four different courts—three courts of appeal and one district court—have rendered final decisions on the issue, and these decisions have been unanimous. There is no need at this time for a Supreme Court decision on the issue.

2. If Federal Courts Are Deemed to Lack Jurisdiction, Then Enforcement of the Statute Will be Left in the Hands of Those Whom It Was Passed to Restrain

The Indian Bill of Rights provides:

> No Indian tribe in exercising powers of self-government shall—
>
> * * *
>
> (8) deny to any person within its jurisdiction the equal protection of the laws or deprive any person of liberty or property without due process of law.
>
> 25 U.S.C. § 1302.

The act was passed to prevent Indian tribes from depriving Indians of certain fundamental rights. It would not have been passed if Congress felt that Indian tribes were not violating these rights.

Petitioners' argument is that Congress meant to give virtually exclusive jurisdiction to those Indian tribal courts and councils which were, in fact, the object of the legislation. Neglected, is the basis of the statute which was to prevent such courts and councils from violating certain basic rights. Petitioners' interpretation of the statute would make the rights it guarantees mere paper rights, dependent on the good faith and respect for law of those very authorities Congress has found too often lacking in that respect. *See Loncassion v. Leekity*, 334 F. Supp. 370, 373 (D. N.M. 1971); *McCurdy v. Steele*, 353 F. Supp. 629, 635 (D. Utah 1973); *Luxon v. Rosebud Sioux Tribe of South*

Dakota, 455 F.2d 698, 700 (8th Cir. 1972); *Johnson v. Lower Elwha Tribal Community of the Lower Elwha Indian Reservation*, 484 F.2d 200, 203 (9th Cir. 1973). Federal courts must have jurisdiction here, if the will of Congress in restraining the excesses of tribal courts and councils is to be respected and given effect.

An influential commentary on the Indian Bill of Rights notes:

> The Indian Bill of Rights contains the following provision: "The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe." No other remedy for enforcing the rights guaranteed by the statute is mentioned. The question arises whether this is the only remedy to enforce the statutory restrictions on tribal governments.
>
> The Senate committee expressed no intention to limit remedies to habeas corpus. Rather, provision of the writ resulted from the special concern that there be means of assuring that the statute's procedural rights were effectively guaranteed to criminal defendants. The committee did not want to abolish tribal courts; a regular appeal would be ineffectual because there would not be an adequate trial record. The first proposal to deal with this problem, S. 962, guaranteed the right to appeal to the federal district courts for a de novo trial with the right to a jury. This was changed into the habeas corpus guarantee, which accomplished effectively the same protection of procedural rights. Also the Senate committee, in its report listing habeas corpus amidst the other guarantees, seems to have regarded habeas corpus not simply as a remedy but also as a right. For these two reasons, the provision for habeas corpus should not be taken as implying that other remedies were intended not to be available.
>
> If no remedy other than habeas corpus were available, a large portion of the rights guaranteed by the

> statute—all those which might be infringed without "detention by order of an Indian tribe"—would be unprotected and therefore ineffectual. For instance, exclusion of members from the reservation or revocation of tribal membership rights, discriminatory allocation of communal resources, prevention of religious practices on the reservation and the taking of private property for public use without just compensation would be infringements of rights declared by the statute that would receive little or no protection from the habeas corpus provision. Lack of other remedies would clearly defeat congressional purpose. The federal courts, in situations similar to this, have implied the appropriate remedies in order to effectuate the purposes of Congress.

Note, "The Indian Bill of Rights and the Constitutional Status of Tribal Governments," 82 Harv. L. Rev. 1343, 1371-72 (1968) (footnotes omitted). The note concludes that jurisdiction to enforce the statute can be found in 28 U.S.C. § 1343(4), which provides jurisdiction for "relief under any Act of Congress providing for the protection of civil rights." All courts which have rendered final decisions on the issue of jurisdiction have similarly held.

3. The Doctrine of *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968), Holds That 28 U.S.C. § 1343(4), Gives Jurisdiction to a Federal Court to Hear Civil Rights Cases Even Where the Statute Providing the Civil Right Does Not Explicitly Grant Jurisdiction to Federal Courts

This issue is ruled by *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968). *See Dodge v. Nakai*, 298 F. Supp. 17, 25 (D. Ariz. 1968); *McCurdy v. Steele*, 353 F. Supp. 629, 635-36 (D. Utah 1973), which have so held. In *Jones*, a Negro who had been deprived of the right to buy private

property, by the act of a private individual, was given the right to enforce the provisions of 42 U.S.C. § 1982.

The court noted, in footnote 1 of the opinion, that jurisdiction was based upon 28 U.S.C. § 1343(4). The court further stated:

> The fact that 42 U.S.C. § 1982 is couched in declaratory terms and provides no explicit method of enforcement does not, of course, prevent a federal court from fashioning an effective equitable remedy.
>
> 392 U.S. 409, n. 13.

Jones is quite similar to the instant case. Jurisdiction to enforce § 1982 was not explicitly given to federal courts, and so it had to be based on § 1343(4). Jurisdiction could have been limited to state courts, but § 1982, like the other Reconstruction civil rights acts, was aimed at correcting and curbing abuses of and by state institutions. To leave sole jurisdiction to administer § 1982 in the hands of the state courts would have been to gut the act. Similarly, to leave the administration of the Indian Bill of Rights solely in the hands of Indian councils and courts is to gut the act.

Other cases implying remedies in similar situations are *Wyandotte Transportation Co. v. United States*, 389 U.S. 191 (1967) (violation of section 15 of the Rivers and Harbors Act of 1899); and *J. I. Case Co. v. Borak*, 377 U.S. 426 (1964) (violation of section 14(a) of the Securities Exchange Act of 1934).

The Indian Bill of Rights is a "civil rights" statute. No explicit jurisdictional provision is established. On the authority of *Jones*, however, federal courts would have jurisdiction under § 1343(4).

4. Congress Specifically Did Mean to Curtail the Sovereign Immunity of Indian Tribal Authorities When That Sovereign Immunity Clashed With Certain Fundamental Human Rights

The sovereign immunity of Indian tribes is curtailed by the statute. It was meant to be curtailed by the statute. Congress felt that the loss of certain very fundamental rights was too high a price for the individual Indian to pay for his tribe's sovereign immunity.

Puzzlement may be given as to what rights are lost by allowing federal jurisdiction. What "rights" are taken away by this statute? To what extent is Indian self-realization and cultural autonomy undermined? The only "right" lost is a right to deny individual Indians equal protection, or due process of law, or a jury in certain cases, or a limited right of free speech, among other rights. The statute merely guarantees certain fundamental civil liberties. It is hardly a gross abridgment of Indian rights to self-realization, but is instead a guarantee that the Indian shall share, not in fundamental Anglo-American liberties, but in what Congress has deemed to be rights fundamental to any civilization to be humane and just. The statute,

> appears to have been tailored by Congress to the purpose of enhancing the civil liberties of individual Indians without unduly undermining Indian self-government and cultural autonomy.

McCurdy v. Steele, supra, 353 F. Supp. at 632. *See also* Note, "The Indian Bill of Rights and the Constitutional Status of Tribal Governments," 82 Harv. L. Rev. 1343, 1359-60 (1968).

Finally, the language of the statute itself indicates a specific Congressional intent to limit the remaining sovereignty of Indian governments: "No Indian tribe in exercising powers of self-government shall . . . " abridge the listed rights. No more definite language could be demanded. *See Johnson v. Lower Elwha Tribal Community of the Lower Elwha Indian Reservation*, 484 F.2d 200, 202 (9th Cir. 1973).

5. The Explicit Grant of Habeas Corpus Jurisdiction in 25 U.S.C. § 1303 Was Not Meant to, by Implication, Deny Jurisdiction in Non-criminal Cases but Rather Was Meant Only to Remedy a Defect in the General Habeas Corpus Statute, 28 U.S.C. §§ 2241(c)(1)-(5)

The reason for the explicit grant of habeas corpus jurisdiction was not to deny jurisdiction over the non-criminal rights given by the statute, but rather to overcome the explicit wording of the habeas corpus statute, 28 U.S.C. §§ 2241(c)(1)-(5), which clearly denied jurisdiction over tribal councils and courts. *See Solomon v. La Rose*, 335 F. Supp. 715, 721 (D. Neb. 1971); *McCurdy v. Steele*, 353 F. Supp. at 635.

CONCLUSION

For the reasons stated above, respondents respectfully request that Writs of Certiorari not issue, and that the judgments of the United States Court of Appeals for the Ninth Circuit in *Thompson v. Tonasket*, 487 F.2d 316 (9th Cir. 1973), *Laramie v. Nicholson*, 487 F.2d 315 (9th Cir. 1973), be left undisturbed, or be summarily affirmed.

Respectfully submitted,

KELLY HANCOCK, P.S.
Attorney for Respondents

March 28, 1974

APPENDIX A

OPINIONS BELOW

THOMPSON v. TONASKET

ALICE M. THOMPSON,
Plaintiff-Appellant,

v.

MEL TONASKET et al., as members of the Colville Business Council of The Colville Confederated Tribe, and The Colville Confederated Tribe,
Defendants-Appellees.

No. 72-1193

UNITED STATES COURT OF APPEALS,
NINTH CIRCUIT

November 2, 1973

PER CURIAM:

This case presents the same jurisdictional question as was presented in the case of Laramie V. Nicholson, 9 Cir., 1973, 487 F.2d 315. As in that case, the trial judge held that he had no jurisdiction and dismissed the action. The judgment is reversed on the authority of Laramie v. Nicholson, *supra*, and of Johnson v. The Lower Elwha Tribal Community, 9 Cir., 1973, 484 F.2d 200.

As in the Laramie case, we express no opinion on the merits of the case because the trial court did not reach that question. The judgment is reversed and the case is remanded for further proceedings.

LARAMIE v. NICHOLSON

JUNE KAREN LARAMIE et al.,
Plaintiffs-Appellants,
v.
NARCISSE NICHOLSON, JR., et al.,
Defendants-Appellees.

No. 72-1264

UNITED STATES COURT OF APPEALS,
NINTH CIRCUIT

October 9, 1973

DUNIWAY, Circuit Judge:

The appealing plaintiffs are children whose mother is a member of the Colville Confederated Tribe of Indians. They seek to be enrolled as members of the tribe. The trial judge dismissed their action for want of jurisdiction, relying on our decision in Fondahn v. Native Village of Tyonek, 9 Cir. 1971, 450 F.2d 520. We reversed and remand.

Although plaintiffs met all other requirements for enrollment in the tribe, they were refused enrollment by the Business Council of the tribe because they had previously been enrolled members of another tribe. Council Resolution 1967-186, Section 4 provided:

> "If the applicant is already a duly enrolled member of another recognized tribe, this will deem the applicant automatically ineligible for adoption in the Colville Confederated Tribes, regardless of whether the applicant offers to relinquish his or her rights with the other tribe.

This requirement was amended in 1969, by Resolution 1969-349, adopted after the action by the Council in the present case, to disqualify also those who had in the past been members of another tribe.

Plaintiffs allege that the Colville Business Council agreed to enroll them if the Commissioner of Indian Affairs of the Department of the Interior ruled that this was not prohibited by Resolution 1967-186. They say that the Commissioner so ruled, but that the Council still refused to take further action, even though other individuals having the same supposed disqualification were enrolled in the tribe. This is the factual basis for plaintiffs' claim of a denial of the equal protection of tribal law.

Plaintiffs claim that violation of the so-called Indian Bill of Rights, 25 U.S.C. §§ 1301-1303, enacted in 1968 (82 Stat. 77), gives rise to a civil action and that 28 U.S.C. § 1343(4) convers jurisdiction on the District Court. We agree. We have recently so held. Johnson v. Lower Elwha Tribal Community, 9 Cir. 1973, 484 F.2d 200 (1973).

In that case, the claim was that the plaintiff had been deprived of due process of law in violation of 25 U.S.C. § 1302(8). In this case, the claim is that the plaintiffs have been deprived of the same section. We see no difference in principle that distinguishes our *Johnson* case from this case.

Our decision in *Fondahn, supra,* is not to the contrary. It is true that the case was decided in 1971, more than three years after the enactment of the Indian Bill of Rights on April 11, 1968. But it is also true that the statute was not brought to our attention, and we did not even purport to decide what its effect upon jurisdiction might be. Instead, we followed pre 1968 law, adopting and applying the reasoning of the Tenth Circuit in Martinez v. Southern Ute Tribe, 10 Cir., 1957, 249 F.2d 915. The Tenth Circuit has indicated that Martinez may no longer be good law.

In Slattery v. Arapahoe Tribal Council, 10 Cir., 1971, 453 F.2d 278, 281, the Tenth Circuit, in dictum, and after citing Martinez, said:

> "It may well be that tribal enrollment practices are now subject to the statutory requirements of equal protection and due process as provided in 25 U.S.C. § 1302(8). See the Indian Bill of Rights and the Constitutional Statute (sic) of Tribal Government, 82 Harv.L.Rev. 1343 [1372-73] (1969). However, the existence of such restraint and the extent thereof need not here be decided." 453 F.2d at 281.

The case was decided on the ground that no violation of the statute was shown. We conclude that *Fondahn, supra,* does not control this case.

We do not consider the merits of the plaintiffs' claim; that is a matter for the district court in the first instance. We only hold that the court did have jurisdiction under 28 U.S.C. § 1343(4) and 25 U.S.C. § 1302(8).

The judgment is reversed and the case is remanded for further proceedings.

APPENDIX B

CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS INVOLVED

UNITED STATES CONSTITUTIONAL PROVISION:

UNITED STATES CONSTITUTION, ART. 1 § 8, cl. 2

The Congress shall have Power . . . to regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes;

UNITED STATES STATUTES:

25 U.S.C. §§ 1301-03.

§ 1301. Definitions.

For purposes of this subchapter, the term—

(1) "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;

(2) "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and

(3) "Indian court" means any Indian tribal court or court of Indian offense. (Pub. L. 90-284, title II, § 201, Apr. 11, 1968, 82 Stat. 77.)

§ 1302. Constitutional rights.

No Indian tribe in exercising powers of self-government shall—

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of

the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witness against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

(7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of $500, or both;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

(Pub. L. 90-284, title II, § 202, Apr. 11, 1968, 82 Stat. 77.)

§ 1303. Habeas corpus.

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe. (Pub. L. 90-284, title II, § 203, Apr. 11, 1968, 82 Stat. 78.)

28 U.S.C. § 1343(4).

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

* * *

(4) to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote. As amended Sept. 3, 1954, c. 1263, § 42, 68 Stat. 1241; Sept. 9, 1957, Pub. L. 85-315, Part III, § 121, 71 Stat. 637.

RULES OF COURT

Rule 19 of the Rules of the United States Supreme Court.

Considerations governing Review on Certiorari.

1. A review on writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered:

(a) Where a state court has decided a federal question

of substance not theretofore determined by this court, or has decided it in a way probably not in accord with applicable decisions of this court.

(b) Where a court of appeals has rendered a decision in conflict with the decision of another court of appeals on the same matter; or has decided an important state or territorial question in a way in conflict with applicable state or territorial law; or has decided an important question of federal law which has not been, but should be, settled by this court; or has decided a federal question in a way in conflict with applicable decisions of this court; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this court's power of supervision.

2. The same general considerations outlined above will control in respect of petitions for writs of certiorari to review judgments of the Court of Claims, of the Court of Customs and Patent Appeals, or of any other court whose determinations are by law reviewable on writ of certiorari.

TRIBAL CONSTITUTIONAL PROVISIONS

ARTICLE VII OF THE CONSTITUTION AND BY-LAWS OF THE COLVILLE CONFEDERATED TRIBES

ARTICLE V, MEMBERSHIP OF THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION.

—There shall be added a new provision governing membership of the Confederated Tribes of the Colville Reservation which shall read as follows:

Section 1.—The membership of the Confederated Tribes of the Colville Reservation shall consist of the following:

(a) All persons of Indian blood whose names appear as members of the Confederated Tribes on the official census of the Indians of the Colville Reservation as of January 1, 1937, provided that, subject to the approval of the Secretary of the Interior corrections may be made in said roll within two years from the adoption and approval of this amendment.

(b) All children possessing one-fourth or more Indian blood, born after January 1, 1937, to any member of the Confederated Tribes of the Colville Reservation maintaining a permanent residence on the Colville Indian Reservation.

(c) All children possessing one-fourth or more Indian blood, born after January 1, 1937, to any member of the Confederated Tribes of the Colville Reservation maintaining residence elsewhere in the continental United States, provided that the parent or guardian of the child indicate a willingness to maintain tribal relations and to participate in tribal affairs. To indicate such willingness to maintain tribal affiliation, the parent or guardian shall, within six months after the birth of the child submit a written application to have the child enrolled. The application shall be accompanied by the child's birth certificate together with any other evidence as to the eligibility of the child for enrollment in the Confederated Tribes of the Colville Reservation. If the certificate and application are not filed within the designated time, the child will not be enrolled.

Section 2. The Business Council of the Confederated Tribes shall have power to prescribe rules and regulations governing future membership in the tribes, including the adoption of members and loss of membership, provided:

(a) That such rules and regulations shall be subject to the approval of the Secretary of the Interior.

(b) That no person shall be adopted who possesses less than one-fourth degree Indian blood.

(c) That any member who takes up permanent residence or is enrolled with a tribe, band or community of foreign Indians shall lose his membership in the Colville Tribes.

Alien Indians may be deleted from the rolls after they have been given an opportunity to be heard in their own behalf. The tribe shall also take appropriate action to correct the existing tribal roll and, if necessary, delete from the rolls alien Indians whose names appear on the rolls of the Confederated Tribes and who have abandoned tribal relations. The Colville Confederated Tribes shall not deprive anyone of vested property rights, such as allotments or inherited interests. (*Adopted by Confederated Tribes May 20, 1949. Approved by Commissioner of Indian Affairs April 14, 1950.*)

Section 3. After July 1, 1959, no person shall be admitted to membership in the Confederated Tribes of the Colville Reservation unless such person possesses at least one-fourth (¼) degree blood of the tribes which constitute the Confederated Tribes of the Colville Reservation. (*Adopted by the Colville Confederated Tribes on May 9, 1959. Approved by the Acting Commissioner of Indian Affairs July 2, 1959.*)

TRIBAL RESOLUTIONS

RESOLUTION NO. 1967-186

BE IT HEREBY RESOLVED, by the Colville Business Council, governing body of the Confederated Tribes of the Colville Reservation, meeting in Special Session at the Colville Indian Sub-Agency, Nespelem, Washington, acting for and on behalf of the Colville Confederated Tribes this 2nd day of June, 1967, that Colville Resolution No. 1966-393 is hereby rescinded in its entirety and the following rules for membership, by adoption, in the Colville Confederated Tribes are hereby established:

Section 1—Applicants must be citizens of the United States and subscribe to the Constitution thereof and to the Constitution and By-Laws of the Confederated Tribes of the Colville Reservation.

Section 2—Applicants must possess at least one-fourth (¼) degree of Indian blood of the tribes which constitute the Confederated Tribes of the Colville Reservation, and such blood must be computed from documentary evidence obtained from sources acceptable and recognized by the Colville Business Council and consistent with the January 1, 1937 Basic Membership Roll.

Section 3—At least one of the applicant's parents must be a duly enrolled member of the Confederated Tribes of the Colville Reservation.

Section 4—If the applicant is already a duly enrolled member of another recognized tribe, this will deem the applicant automatically ineligible for adoption in the Colville Confederated Tribes, regardless of whether the applicant offers to relinquish his or her rights with the other tribe.

Section 5—Applicants must possess good character and otherwise be acceptable to the Business Council as a tribal member. Applicants must state under oath that he or she has not been convicted of any offense involving dishonesty during the preceding five years.

RESOLVED FURTHER, that the Secretary of the Interior, or his duly authorized representative, is hereby requested to give top priority in reviewing this resolution so that the authority to approve tribal adoption cases will again be delegated to the Colville Business Council, thereby preventing any undue delay in the processing of tribal adoption cases.

The foregoing was duly enacted by the Colville Business Council by a vote of 6 FOR and 4 AGAINST, under authority contained in Article V, Section 1(a) of the Constitution and By-Laws of the Confederated Tribes of the Colville Reservation, ratified by the Colville Indians on February 26, 1938 and approved by the Commissioner of Indian Affairs on April 19, 1938; and under further authority contained in Article VII, Section 2 of the Constitution and By-Laws, adopted by the Confederated Tribes on May 20, 1949 and approved by the Commissioner of Indian Affairs on April 14, 1950.

ATTEST:

Narcisse Nicholson, Jr.

.....

Narcisse Nicholson, Jr., Chairman
Colville Business Council

RESOLUTION NO. 1969-349

WHEREAS, by enactment of Resolution 1967-186, dated June 2, 1967, the Business Council established rules for membership by adoption; and

WHEREAS, the above cited resolution was approved by the Deputy Assistant Commissioner of Indian Affairs on August 2, 1967; and

WHEREAS, Section 4 and 5, of Resolution 1967-186 are not clear as to their meaning; and

WHEREAS, it is the recommendation of the Enrollment Committee to amend Sections 4 and 5 of Resolution 1967-186.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that we, the Colville Business Council, meeting in Special Session at the Colville Indian Sub-Agency, Nespelem, Washington, acting for and on behalf of the Colville Confederated Tribes this 22nd day of September, 1969, do hereby approve the recommendation of the Enrollment Committee. Sections 4 and 5 shall be amended to read as follows:

> "Section 4—If the applicant is already a duly enrolled member, or has in the past been a duly enrolled member of another recognized Indian tribe, this will deem the applicant ineligible for adoption in the Colville Confederated Tribes, regardless of whether the applicant offers to relinquish, or has relinquished, his or her rights with the other tribe."
>
> "Section 5—Applicants must possess good character and otherwise be acceptable to the Business Council at a tribal member. Applicants, excluding minors, must state under oath that he or she has not been convicted of any offense involving dishonesty during the preceding five years."

RESOLVED FURTHER, that the Secretary of the Interior, or his duly authorized representative, is hereby requested to give top priority in reviewing the amendment to Resolution 1967-186.

The foregoing was duly enacted by the Colville Business Council by a vote of 11 FOR and 0 AGAINST, under authority contained in Article V, Section 1(a) of the Con-

stitution and By-Laws of the Confederated Tribes of the Colville Reservation, ratified by the Colville Indians on February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938.

ATTEST:

Narcisse Nicholson, Jr.

.....

Narcisse Nicholson, Jr., Chairman
Colville Business Council

APPENDIX C

COMPLAINTS

THOMPSON COMPLAINT

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON NORHERN DIVISION

ALICE M. THOMPSON, *Plaintiff,* v. MEL TONASKET, CLARENCE DESAUTEL, LUCY COVINGTON, BARBARA MARCHAND, CHARLES QUINTASKET, GABE MOSES, SHIRLEY PALMER, ANDY JOSEPH, BARNEY RICKARD, AL AUBERTIN, ALICE LAWRENCE, ROY SEYLOR, GEORGE MEUSY, JOE KOHLER, as members of the COLVILLE BUSINESS COUNCIL of the Colville Confederated Tribe, and THE COLVILLE CONFEDERATED TRIBE, *Defendants.*	Civil No. 3540 COMPLAINT

Comes now the Plaintiff above named and for cause of action against the Defendants alleges and shows the Court as follows:

I.

That at all times herein mentioned the following were the members of the Colville Business Council of the Colville Confederated Tribe: Mel Tonasket, Clarence Desautel, Lucy Covington, Barbara Marchand, Charles Quintasket, Gabe Moses, Shirley Palmer, Andy Joseph, Barney Rickard, Al Aubertin, Alice Lawrence, Roy Seylor, George Meusy and Joe Kohler.

II.

That at all times herein mentioned the Colville Confederated Tribe was a tribe of Indians, with its holdings and main place of business located within Okanogan and Ferry Counties, State of Washington.

III.

That at all times herein mentioned the Colville Business Council was composed of members of the Colville Confederated Tribes, with their principal place of business in Nespelem, Washington, and Coulee Dam, Washington.

IV.

That at all times herein mentioned, the Plaintiff herein Alice M. Thompson, was also known as Alice Margaret McDonald.

V.

That the Plaintiff was born August 25, 1911, near Oroville, Okanogan County, Washington, and that her place of birth was recorded September 2, 1911, with the Registrar of Births in Olympia, Washington.

VI.

That the Plaintiff is an American citizen by birth, and has always retained her rights as an American citizen and has never in any manner given up such rights.

VII.

That the Plaintiff is married to Louis Raymond Thompson, an American citizen born in Sprague, Washington, who has always retained his rights as an American citizen.

VIII.

That the Plaintiff was enrolled on the Colville Indian rolls on or about November 2, 1911; that the Plaintiff remained on the Colville rolls from the time she was placed thereon, and had an allotment on the Colville Reservation up to the date of approximately 1953; that the Plaintiff received her per capita payments and all payments given to other members of the Colville Tribe up through the year of 1952.

IX.

That on or about the year of 1953, the Plaintiff was improperly stricken from the rolls of the Colville Confederated Tribe and deleted therefrom as a member; that on or about the year of 1958 the Plaintiff received her Patent in Fee to her allotment.

X.

That the alleged reason that the Plaintiff was stricken from the rolls of the Colville Confederated Tribes by an action of the tribal council and/or the Colville Business Council of the Colville Confederated Tribes; that the alleged reason she was stricken from the rolls was based upon the claim that the Plaintiff was a Canadian and not an American citizen; that in truth and fact, this was not so, and the Plaintiff at all times has been an American citizen and was not a Canadian Indian.

That at the time the Plaintiff was improperly stricken from the rolls of the Colville Confederated Tribe, she protested this, but had no control by which to stop her name being deleted from the rolls, and such action was taken, which the Plaintiff alleges was not a proper act in any respect; that the action was taken without the Plaintiff

having full right of representation at the hearing and without her having full right to present her evidence to the council or to the proper authorities.

XI.

That allegedly the reason that Plaintiff was stricken from the rolls was that she had voted in a foreign election in Canada, and by so doing, had lost her American citizenship. They contended they were acting under 8 U.S.C. § 1481(a)(5) and under the ruling of *Perez v. Brownell*, 356 U.S. 44 (1958). 8 U.S.C. § 1481(a)(5) was declared unconstitutional by the case of *Afroyim v. Rusk*, 387 U.S. 253 (1967), and the *Perez v. Brownell* case was overruled by the *Afroyim v. Rusk* case, and by the unconstitutional 8 U.S.C. § 1481(a)(5).

XII.

The *Plaintiff has again petitioned* to the Colville Business Council to be enrolled as a member of the Colville Confederated Tribe, and they and the enrollment committee were advised by the United States Department of the Interior, Bureau of Indian Affairs, in Washington, D.C., that based upon the law that the Council did not have the authority, and the enrollment committee did not have the authority, to determine whether a tribal member would lose their nationality by voting in a foreign election and did not have the authority to declare that the Plaintiff herein had lost her right to remain a member of the Colville Confederated Tribe by declaring that she had voted in a foreign election.

XIII.

That even though the Colville Business Council and the Colville Confederated Tribe and the Enrollment Commit-

mittee were advised of this, *they still have refused to act* upon the application of the Plaintiff herein to be placed back on the rolls of the Colville Confederated Tribe.

XIV.

That the Plaintiff meets all of the requirements for membership in the Colville Confederated Tribe, and is an American citizen, and the Defendants had no right whatsoever to strike her from the rolls.

XV.

That although repeated requests were made for the reenrollment of the Plaintiff, the Tribal Council and the Enrollment Committee *have refused to take any action thereon.*

XVI.

That the actions of the Colville Confederated Tribe, the Business Council and the Enrollment Committee was arbitrary and capricious and illegal and unconstitutional and in violation of the Plaintiff's constitutional rights as an American citizen, as they had declared that she no longer was an American citizen.

XVII.

That many other individuals have been enrolled in the Colville Confederated Tribe, without having to show all of the facts that this plaintiff has had to show, and who had some of the disqualifications that were claimed to exist against the Plaintiff herein; that the said tribal council has discriminated against the Plaintiff, contrary to law, even though she has met all of the requirements to be re-enrolled in the tribe.

That the said acts of discrimination against the Plaintiff are contrary to the laws of the United States, being 42

U.S.C.A. 1981 and all pertinent sections under the Civil Rights Acts under Title 42, and the United States Constitution and all pertinent sections thereof.

That 25 U.S.C.A. ∫ 1302 provides that no Indian tribe in exercising powers of self government shall deny to any person within its jurisdiction the equal protections of the laws, or deprive any person of liberty or property without process of law.

That by the arbitrary, capricious, and discriminatory action of the Business Council of the Colville Confederated Tribe, the Colville Confederated Tribe and the Enrollment Committee, *the Plaintiff has been denied equal protection of the laws and has been deprived of property without due process of law.*

XVIII.

That a Federal question is involved; that the United States District Court has jurisdiction of the persons and subject matter herein.

XIX.

That if the Plaintiff is placed back on the rolls of the Colville Confederated Tribe, *it would mean that she would have an interest in the Colville Confederated Tribe* and would receive benefits from the Colville Confederated Tribe.

That certain benefits have been paid to the members of the Colville Confederated Tribe through per capita and otherwise, for a number of years, and since 1953, and that Plaintiff is entitled to have these benefits paid to her from the date that she was improperly stricken from the rolls of the Colville Confederated Tribe to the date of hearing of this Complaint and the decision of the Court,

as such benefits are earned benefits to which the Plaintiff is entitled, and is being improperly deprived of, without due process of law; that the exact amount of such benefits are unknown to the Plaintiff, but will be alleged and testified to at the time of trial, said benefits being for per capita payments and other payments made to members of the tribe since 1953.

That the Plaintiff should be allowed a reasonable attorney's fee against the Defendants for the bringing of this action, as the Defendants have, without proper authority, discriminated against the Plaintiff, and without proper authority have stricken the Plaintiff from the tribe's rolls, and that a reasonable attorney's fee would be the sum of $5,000.00.

That the Plaintiff has no other adequate remedy at law.

That the Defendants now refuse to act upon Plaintiff's petition, even though they have been instructed as to what the law is and what the rights of the Plaintiff are, and by so doing, the said Defendants are continuing to deprive the Plaintiff of her property without due process of law

WHEREFORE, the Plaintiff prays for Judgment against the Defendants as follows:

1. That the Court decree that the Plaintiff be reinstated and re-enrolled as a member of the Colville Confederated Tribe, and that her name be placed retroactively upon the rolls, effective as of the date of 1952, and that the Court order and decree that the Colville Business Council and the Colville Confederated Tribe and the Enrollment Committee enact the necessary Resolution to approve the application of the Plaintiff for the placing of her name back upon the rolls of the Colville Confederated Tribe, and

that her name be placed thereon retroactively as of the year 1952.

2. That the Court order and direct that said Plaintiff receive full back per capita payments, and any and all other payments that have been made to members of the Colville Confederated Tribe, since the year of 1952 to the date of Judgment of this Court and that the Colville Confederated Tribe and the Colville Business Council be ordered to adopt the necessary resolution for the payment of said amounts, and if such cannot be done, then, in the alternative, that the Plaintiff have judgment against the Colville Confederated Tribe and the Colville Business Council and the Enrollment Committee of the Colville Confederated Tribe, and the specific members of the Colville Confederated Tribe, for the amount of said back per capita pay and any and all other payments made to the members of the Colville Confederated Tribe since the year 1952, plus interest on said amount at the rate of eight (8%) per cent per annum from the time said amounts became due and payable to the date of Judgment.

3. That the Court decree that the Plaintiff have judgment against the Defendants for attorney fees in the sum of $5,000.00, plus Plaintiff's court costs herein.

4. For such other and further relief as to the Court may seem just, equitable and proper.

s/ KELLY HANCOCK
Attorney for Plaintiff
Box H, Omak,
Washington 98841

STATE OF WASHINGTON }
County of Okanogan } ss.

ALICE M. THOMPSON, being first duly sworn, on oath, deposes and says: That she is the Plaintiff named in the

above entitled action; that she has read the foregoing Complaint, knows the contents thereof and believes the same to be true.

s/ ALICE M. THOMPSON

Subscribed and sworn to before me this 9th day of August, 1971. [seal]

s/ KELLY HANCOCK
Notary Public in and for the State of Washington, residing at Omak.

LARAMIE COMPLAINT

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON NORTHERN DIVISION

JUNE KAREN LARAMIE, PATRICIA MAE LARAMIE and CONNIE SUE LARAMIE, by and through their Guardians Ad Litem, EVELYN A. LARAMIE, and TYRONE W. LARAMIE,

Plaintiffs,

v.

NARCISSE NICHOLSON, JR., MARY NICHOLSON, THELMA MARCHAND, GEORGE SNIDER, ALICE LAWRENCE, ROY SEYLOR, DEAN DOURGEAU, PAT NUGENT, BARNEY RICKARD, OLIVER POOLER, SHIRLEY PALMER, JIMMY ORR, LUCY COVINGTON, and VIRGINIA ANDREWS, as members of the COLVILLE BUSINESS COUNCIL of THE COLVILLE CONFEDERATED TRIBE, and THE COLVILLE CONFEDERATED TRIBE,

Defendants.

COMPLAINT
No. 3402

Come now the Plaintiffs above named and by and through their Guardians Ad Litem alleges and show the Court as follows:

I.

That Tyrone W. Laramie and Evelyn A. Laramie are the duly appointed, qualified and acting Guardians Ad Litem of June Karen Laramie, Patricia May (sic) Laramie and Connie Sue Laramie, the above named minors.

II.

That at all times herein mentioned the Defendants Narcisse Nicholson, Jr., Mary Nicholson, Thelma Marchand, George Snider, Alice Lawrence, Roy Seylor, Dean Dougeau, Pat Nugent, Barney Rickard, Oliver Pooler, Shirley Palmer, Lucy Covington, Jimmy Orr and Virginia Andrews were members of the Colville Business Council of the Colville Confederated Tribes.

That at all times herein mentioned the Colville Business Council, acting on behalf of the Colville Confederated Tribes, acted on the application of the three minor Plaintiffs for tribal membership.

That at all times herein mentioned the Colville Business Council was composed of members of the Colville Confederated Tribes, with their principal place of business at Nespelem, Washington, and Grand Coulee, Washington.

III.

That the said three minor Plaintiffs did apply to the Colville Business Council to be adopted as members of the Colville Confederated Tribes.

IV.

That the said Colville Business Council and/or the Enrollment Committee thereof advised the parents of said minors that there were certain requirements that they had to meet and certain evidence that they had to show,

to wit: That they were citizens of the United States, that they had the proper degree of Indian blood to be admitted to the Colville Confederated Tribe, that they were not members of any other tribe, and other requirements alleged to be required by the Colville Confederated Tribes for enrollment, which requirements had been set up by the Business Council of the Colville Confederated Tribes.

That all of said requirements were met by the Plaintiffs.

That at the time of the last hearing, the Enrollment Committee contended that a Resolution had been passed by the Colville Business Council that prohibited the minors from being adopted as members of the Colville Confederated Tribe, due to the fact that they and/or their parents had been enrolled in a Canadian tribe, even though they had been disenfranchised therefrom, disbarred them from becoming adopted. It was stipulated by the Business Council, however, that if this did not bar them, then their application for enrollment would be accepted.

It was stipulated at the hearing that an opinion would be requested by the Enrollment Committee and/or the Colville Business Council from the Department of the Interior, Bureau of Indian Affairs, Washington, D.C., and that an opinion would be requested by the attorney representing the said Plaintiffs.

That the said opinion was requested both by the Colville Confederated Tribes through their respective business council, and by the attorney for the Plaintiffs. That it was ruled by the Bureau of Indian Affairs of the Department of Interior, through the Commissioner of Indian Affairs that the fact that said Plaintiffs and/or their parents, had

been enrolled before in a tribe in Canada did not, under the resolution, disqualify them, since they had been disenfranchised from that tribe. However, even though such ruling was made, the said Colville Business Council and the Colville Enrollment Committee then refused to grant any further hearing on said adoption petitions by the Plaintiffs, and refused to take any further action to adopt said Plaintiffs into the membership of the Colville Confederated Tribes.

V.

That the said actions of the Colville Confederated Tribe by and through the Colville Business Council, and by and through the Enrollment Committee of the Colville Business Council was an action on behalf of said tribe and governing bodies thereof, and that said tenants (sic, defendants) *discriminated against the said three minor Plaintiffs*, herein, even though said Plaintiffs met all of the requirements required of them, even though two of the Plaintiffs went to the extent of securing the necessary papers to show that they were United States citizens, and that the said Colville Confederated Tribe, acting through their respective defendant governing body, improperly, without authority, *did discriminate against the said Plaintiffs* contrary to the laws of the United States, being USCA "Sections 1981 and all pertinent sections under the Civil Rights Act under Title 42, and the United States Constitution and all pertinent sections thereto."

That many other individuals have been adopted into the Colville Confederated Tribe without having to show all of the facts that these Plaintiffs have had to show, and that many individuals have been adopted who had some of the

disqualifications that these Plaintiffs had to show did not exist, and that the said tribal council has *discriminated against these Plaintiffs contrary to law,* because they required more of them than other individuals who have been adopted into the Tribe, and that they have been *further discriminated against* because even after these requirements had been met, the applications of Plaintiffs were still refused.

VI.

That a Federal question is involved. That the U. S. District Court has jurisdiction of said matter.

That being adopted as members of the Colville Confederated Tribes by said respective Plaintiffs would mean that they would have an interest in the assets of the Colville Confederated Tribes, and that they would receive benefits from the Colville Confederated Tribe in the future.

That certain benefits have been paid to the members of the Colville Confederated Tribe, through per capita and otherwise, for a number of years, and that the Plaintiffs are entitled to have these benefits paid to them from the date of their application was made to the date of the hearing on this Complaint, as such benefits are earned benefits which Plaintiffs are entitled to; that the exact amount of such benefits are unknown to the Plaintiffs, but will be alleged and testified to at the time of trial.

VII.

That said Plaintiffs should be allowed a reasonable attorney's fee against the Defendants for the bringing of this action; that a reasonable attorney's fee would be $2,500.00, plus Court costs herein.

VIII.

That the Plaintiffs have no other adequate remedy at law.

WHEREFORE, Plaintiffs pray for Judgment as follows:

1. That the Court decree that the Defendants have improperly acted upon the applications for adoptions on behalf of said minor Plaintiffs, and decree and order that the Colville Business Council of the Colville Confederated Tribe pass the necessary resolution to approve the applications for the petition for adoption by said three minor Plaintiffs, and that the said Plaintiffs be adopted as members of the Colville Confederated Tribe and placed on the rolls thereof effective as of the dates of their applications.

2. That the Court order that said three minor Plaintiffs receive full back per capita payments that have been made during the time interval since they made application to the date of this decree.

3. That the Court decree that Plaintiffs have judgment against the Defendants for attorney fees in the sum of $2,500.00, plus the Plaintiffs' Court costs herein.

4. That the Court decree and award such other and further relief as to the Court seems just and proper.

HANCOCK & KOHLS,
Box H, Omak, Washington
98841
s/KELLY HANCOCK
Attorneys for Plaintiffs

State of Washington }
County of Stevens } ss.

TYRONE W. LARAMIE and EVELYN A. LARAMIE, husband and wife, being first duly sworn, on oath, deposes and says: That she is the Plaintiff above named and on the duly appointed, qualified and acting Guardian Ad Litem of June Karen Laramie, Patricia Mae Laramie and Connie Sue Laramie, Minors; that she has read the foregoing Complaint, knows the contents thereof and believes the same to be true.

s/ TYRONE W. LARAMIE
s/ EVELYN A. LARAMIE

Subscribed and sworn to before me this 26th day of June, 1970.

s/ [SIGNATURE]
Notary Public in and for the State of Washington, residing at Colville, Wash.